IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

MFA.No. 383 of 2003(C)

OPMV.478/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA
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APPELLANT: 1ST RESPONDENT:-

C.K.BALAN S/O. KELU NAIR,
CHIRAKUNIYIL HOUSE, VELLIKULANGARA,
P.O.MADAPPALLI COLLEGE, VADAKARA TALUK
(OWNER OF JEEP, K.L.11/A.1312.)

BY ADV. SRI.B.KRISHNAN

RESPONDENTS: PETITIONER & RESPONDENTS 3 AND 2:-
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1. SATHYAN P.T., AGED 27 YEARS,
S/O. NARAYANAN, PALAKKOOL THAZHA HOUSE,
AYANIKKAD AMSOM, POST, AYANIKKAD,
KOYILANDY TALUK.

2. M/S. ORIENTAL INSURANCE CO.LTD.,
BRANCH OFFICE, VADAKARA,
(CERTIFICATE NO.2056812, POLICY NO.2965/1997 -
INSURER OF JEEP KL.11/1.1312)

3. G.MOHANAN, S/O. CHATHU,
GURUKKALAVITA HOUSE, 41/97, POST, MADAPPALLY
COLLEGE, DL.NO.2072/85 - DRIVER OF
JEEP KL.11/1312)

BY ADV. SRI.VPK.PANICKER
SRI.SELJUM P.EMMANNUEL

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.1902/2003 IN MFA.NO.383 / 2003-C.

DISMISSED.

SD/- K.S.RADHAKRISHNAN, JUDGE.

19..12..2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

(TRUE COPY)

P.S. TO JUDGE.

Kvs/-

K.S. Radhakrishnan &
T.R. Ramachandran Nair, JJ.

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M.F.A.NO.383 of 2003

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Dated this the 19th day of December, 2007

JUDGMENT

Radhakrishnan, J.

This appeal is preferred by the owner of the vehicle. The Tribunal has exonerated the insurance company because of the violation of the policy conditions, for which no other evidence was adduced. Further, the applicability of the decision of this court in **Mathew Joseph v. Janaki** (2007 (1) KLT 747) will also be examined by the Tribunal.

Therefore, the award is set aside and the matter is remitted back to the Tribunal for fresh consideration. The parties will be given opportunity to adduce evidence.

(K.S. Radhakrishnan, Judge.)

(T.R. Ramachandran Nair, Judge.)

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K.S. Radhakrishnan &

T.R. Ramachandran Nair, JJ.

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M.F.A. No.383 of 2003

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JUDGMENT

19th December, 2007.